

Before the
Administrative Hearing Commission
State of Missouri



JAMES & JAEMI LOVELLETTE,

Petitioner,

vs.

DIRECTOR OF REVENUE,

Respondent.

No. 13-1680 RV

DECISION

James and Jaemi Lovellette are not entitled to a refund of fees paid for their motor vehicle license plate/tab.¹

Procedure

On September 23, 2013, the Lovellettes filed a complaint seeking a refund of fees paid for their license plate/tab. The Director of Revenue (“Director”) filed an answer and motion for decision on the pleadings on September 26, 2013. We gave the Lovellettes until October 11, 2013, to respond to the Director’s motion, but they did not respond.

Regulation 1 CSR 15-3.446(4) provides:

A decision on the pleadings is a decision without hearing based solely on the complaint and the answer. The commission may grant a motion for decision on the pleadings if a party’s pleading, taken as true, entitles another party to a favorable decision.

¹ The record, including the denial letter and the complaint, does not distinguish between plates and tabs.

Facts Taken as True for Purposes of Ruling on the Motion

Based upon the complaint, which we take as true for purposes of ruling on the motion for decision on the pleadings, we find the following facts:

1. In July 2013, the Lovellettes purchased 24-month license plate/tab for a spare vehicle. They sold the spare vehicle in August 2013.
2. The Lovellettes surrendered the license plate/tab and requested a refund of fees paid for the unused 22 months that the plate/tab will not be used.
3. The Director denied the Lovellettes' request for a refund on September 4, 2013.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions.² The Lovellettes have the burden to prove that they are entitled to a refund.³ Our duty is not merely to review the Director's decision, but to independently apply existing law to the facts and render the ultimate administrative decision.⁴

The Lovellettes argue that a refund is appropriate because they will not use the license plate/tab for the remaining period of time before it expires. The Director argues that no provision of law authorizes him to issue a refund under these circumstances. The Director is correct.

A refund is a limited waiver of sovereign immunity and is not allowed unless expressly permitted by statute.⁵ "When a state consents to be sued, it may be proceeded against only in the manner and to the extent provided by the statute; and the state may prescribe the procedure to be followed and such other terms and conditions as it sees fit."⁶

²Section 621.050, RSMo 2000. Statutory references are to RSMo Supp. 2012, unless otherwise noted.

³*Id.*

⁴*J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

⁵*Community Fed. Sav. & Loan Ass'n v. Director of Revenue*, 796 S.W.2d 883, 885 (Mo. banc 1990).

⁶*State ex rel. Brady Motorfrate, Inc. v. State Tax Comm'n*, 517 S.W.2d 133, 137 (Mo. 1974).

Missouri statutes provide for refunds or credits against unused license plates and tabs only in limited circumstances. Section 301.121, for example, provides for a refund of certain amounts paid when a license plate is surrendered, but only for commercial vehicles registered in excess of 54,000 pounds. By contrast, § 301.140.8, which applies to other motor vehicles, provides:

Upon the transfer of ownership of any currently registered motor vehicle wherein the owner cannot transfer the license plates due to a change of vehicle category, **the owner may surrender the license plates issued to the motor vehicle and receive credit for any unused portion of the original registration fee against the registration fee of another motor vehicle.** Such credit shall be granted based upon the date the license plates are surrendered. **No refunds shall be made on the unused portion of any license plates surrendered for such credit.**

(Emphasis added.) Section 301.140.3 provides:

License plates may be transferred from a motor vehicle which will no longer be operated to a newly purchased motor vehicle by the owner of such vehicles. The owner shall pay a transfer fee of two dollars if the newly purchased vehicle is of horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, not in excess of that of the vehicle which will no longer be operated. When the newly purchased motor vehicle is of greater horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a greater fee is prescribed, the applicant shall pay a transfer fee of two dollars and a pro rata portion of the difference in fees. When the newly purchased vehicle is of less horsepower, gross weight or (in the case of a passenger-carrying commercial motor vehicle) seating capacity, for which a lesser fee is prescribed, **the applicant shall not be entitled to a refund.**

Section 301.140.8 allows a credit for the unused portion of the original registration fee against the registration fee of another motor vehicle upon transfer of ownership of a vehicle when the owner cannot transfer the license plates due to a change of vehicle category. Based upon the facts before us, this subsection does not apply to the Lovellettes. This subsection expressly does not allow a refund. Nor does § 301.140.3, which allows a reduced transfer fee

when license plates are transferred from a motor vehicle that will no longer be operated to a newly purchased motor vehicle by the owner of such vehicles.

Unfortunately, we do not find any provision of law authorizing a refund to the Lovellettes under these circumstances. We may only do what the law allows us to do, and neither the Director nor this Commission may change the law.⁷ Therefore, we must deny the Lovellettes' request for a refund. Alternatively, the Lovellettes request that the plate and tab they surrendered be returned to them. We have no power to superintend the Director's procedures;⁸ however, the Director may respond to the Lovellettes' request in a manner he deems appropriate.

Summary

The Lovellettes are not entitled to a refund of the fees they paid for the license plate and tab that they surrendered to the Director.

SO ORDERED on November 18, 2013.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner

⁷*Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).

⁸*Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W.2d 445, 450 (Mo. banc 1985).